

1 TESTIMONY OF  
2 DOROTHY MARIE TING, Witness called on behalf of the  
3 Plaintiffs,

4 DIRECT EXAMINATION

5 By LESLEY A. CLEMENT, Attorney at Law, Counsel on behalf of  
6 the Plaintiffs:

7 Q Good morning, Ms. Ting.

8 A Good morning.

9 Q Good morning. Can you please tell the jurors, um,  
10 what you do for a living?

11 A I'm a general manager for an assisted living  
12 community.

13 Q And where do you currently work?

14 A I work in Elk Grove at The Commons of Elk Grove.

15 Q And how long have you been working there?

16 A Um, roughly about 16 months now.

17 Q And prior to working at The Commons -- are you -- are  
18 you the executive director there?

19 A Yes.

20 Q And prior to working at The Commons had you been  
21 executive director at any Emeritus facilities?

22 A Yes, I was.

23 Q And can you tell the jurors which Emeritus facilities  
24 you were the executive director of?

25 A Um, in Tracy I was the executive director there, um,  
26 and in, um, Fairfield at Rancho Solano.

27 Q And was the first facility that you started with at --  
28 oh, your Honor, I forgot to state that the witness is being

1 called under 776.

2 MR. REID: I object to that, um, designation for this  
3 witness.

4 THE COURT: All right. Is this any witness that has  
5 been represented by Emeritus at any point in this case?

6 MR. REID: No, your Honor.

7 THE COURT: Okay. Let's proceed regularly and see  
8 what happens.

9 MS. CLEMENT: Okay.

10 The point is, your Honor, at the time --

11 THE COURT: I understand.

12 MS. CLEMENT: -- in question she was employed.

13 THE COURT: I understand.

14 MS. CLEMENT: Okay. Thank you, your Honor.

15 Q (By MS. CLEMENT) Um, when did you first become  
16 affiliated with the company called Emeritus?

17 A Um, I believe it was in, um, 2000 -- late 2007 while I  
18 was working at Tracy. Um, Summerville Senior Living and  
19 Emeritus merged together, and that was my first encounter  
20 with that company.

21 Q And did you start working at, um -- when you started  
22 working at the Tracy facility was that a Summerville  
23 building?

24 A It was.

25 Q Okay. And then the merger happened and it became  
26 Emeritus?

27 A Yes, ma'am.

28 Q And were you originally hired, um, by Summerville to

1 run the Tracy facility?

2 A Yes.

3 Q And who hired you?

4 A Um, Lisa Hulse.

5 Q And, um, was she the head nurse at Summerville to your  
6 understanding?

7 A At that time --

8 MR. REID: It's leading -- it's leading and it's  
9 vague.

10 THE COURT: Sustained.

11 Q (By MS. CLEMENT) What was your understanding of, um,  
12 what Ms. Hulse's position was when she hired you?

13 A She was the regional director of operations for  
14 Summerville at that time.

15 Q What was your understanding of what her job position  
16 became after the merger with, um, Emeritus?

17 A Um, if my memory serves me correctly, um, that she  
18 would be the nurse for the, um, California region.

19 Q And once, um, Summerville and Emeritus merged who were  
20 your supervisors, if you could list them off for us?

21 A Well, we had, um, Toni Graham, she was the regional  
22 director of sales and marketing. And then we had a  
23 gentleman who was only with us for a month, but I can't  
24 recall his name, um, after the merger. Um, I -- I can't  
25 remember the other name.

26 Q Okay. Did you ever report to a Catherine Ratelle?

27 A Yes.

28 Q And did you ever, um, report to a Ronda Castleberg?

1 A Yes.

2 Q And how about Angela Neale?

3 A Yes.

4 Q Okay. And how long did you work at that first  
5 building, west -- excuse me -- um, the Tracy Heritage  
6 facility?

7 A Um, I worked there for about a year.

8 Q And then from there where did you go?

9 A I went to Rancho Solano in Fairfield.

10 Q Did you ever work at a facility called Westwind  
11 Gardens?

12 A Yes, I did.

13 Q Okay. And when in the order of your employment with  
14 Emeritus did you work at Westwind Gardens?

15 A That was my first building was with Summerville Senior  
16 Living, um, and then I was transferred to Heritage Place in  
17 Tracy, and then again to, um, Rancho Solano in Fairfield.

18 Q Okay. When you started at Westwind Gardens, um, in  
19 Vacaville, did you have any concerns about the, um, building  
20 itself?

21 MR. REID: That's vague, it's also 352.

22 THE COURT: Overruled.

23 MS. CLEMENT: That means you can answer.

24 THE WITNESS: Oh, okay. Thank you.

25 MS. CLEMENT: You're welcome.

26 THE WITNESS: Um, the building was old, um, and it  
27 was -- the facilities were, um, not taken care of very good.  
28 Um, that's the best I can explain it. Um, the staff and I

1 had to work tirelessly to fix it. We painted it top and  
2 bottom and, um, tried to make a good place for the residents  
3 to live.

4 Q (By MS. CLEMENT) And from there you went to the Tracy  
5 facility, the Emeritus facility; true?

6 A Uh-huh.

7 Q Yes?

8 A Yes.

9 Q Sorry. You have to always use words.

10 A Oh, sorry. Yes.

11 Q That is okay. And what was the condition of the Tracy  
12 facility when you got there?

13 A It was --

14 MR. REID: Relevance and 352, your Honor.

15 THE COURT: All right. The relevance objection is  
16 overruled given the fact that the prior exhibit that we have  
17 all been talking about in the situation involving this  
18 witness. 352, I'm going to allow just limited questions  
19 except within the scope of what our previous testimony has  
20 been so -- and the other issues relevant to the case.

21 So, let's continue.

22 MS. CLEMENT: Thank you, your Honor.

23 Q (By MS. CLEMENT) Can you tell us what the conditions  
24 were like at the Tracy facility when you took over as the  
25 executive director?

26 A Um, it was a older building also but it was well taken  
27 care of. The maintenance person did a great job. And, you  
28 know, there wasn't really much to do except for, you know,

1 the staff and that sort of thing. But the building was in  
2 great shape.

3 Q Okay. What were -- what, if any, concerns did you  
4 have about the staffing when you got to the Tracy building  
5 as executive director?

6 A Well, there was, um -- how do I explain? The staff  
7 were dedicated but they were lacking direction. And that's  
8 really all they needed was some direction, some consistency.

9 Q Did you have any concerns with regard to whether there  
10 was enough staff at the Tracy facility?

11 A I believe there was enough staff. Um, they just, like  
12 I said, needed consistency and direction, and we -- we did  
13 good. We did fine.

14 Q Um, were you expected to turn things around at the  
15 Tracy facility?

16 A Uh-huh. Census was down, and so the reason I was  
17 brought there is to, um, bring the census up, have some, of  
18 course, like I said previously, consistency and, um,  
19 direction for the staff, and we succeeded in doing that.

20 Q All right. And then, um, were you transferred to  
21 Rancho Solano?

22 A Yes, I was.

23 Q And when did you -- was that late March of 2008 that  
24 you were transferred there?

25 A It was.

26 Q And what was the condition of Rancho Solano when you  
27 arrived?

28 A Um, it was a newer building than Tracy but in just as

1 bad shape as Westwind Gardens. It wasn't taken care of very  
2 well. Um, the staffing was inadequate and, um, census was  
3 very, very low.

4 Q Can you tell -- describe for the jury what -- how big  
5 that, um, Tracy building -- or strike that. When I say  
6 "strike that", that means I asked a bad question, okay.

7 Can you describe for the jury how big that building  
8 was, what the layout was of that building?

9 A Uh-huh. The -- what building is that?

10 Q The Rancho Solano.

11 A Oh, Rancho Solano. Yes. Rancho Solano was a 172-bed  
12 community, if my memory serves me correctly. Um, when you  
13 walk in there is a lobby and on each side of that lobby is  
14 two towers, three stories each. And beyond the lobby on the  
15 first floor is the dining room. That's how big it was.

16 Q Did that facility have both memory care and assisted  
17 living?

18 A Um, yes, it did.

19 Q And where was the memory care?

20 A The memory care was on the second floor.

21 Q And what was the acuity like when you arrived -- the  
22 resident acuity like when you arrived at Rancho Solano at  
23 the end of March 2008?

24 A Um, it was like any other building, the acuity, um, it  
25 was something that was manageable, if allowed. You could  
26 manage something like that, yeah.

27 Q Why do you say "if allowed"?

28 A Well, when I arrived at Rancho Solano it was quite a

1 different, um, setting than at Westwind Gardens and at the  
2 Tracy Heritage building. Um, it was though that I wasn't  
3 allowed to manage the building as I was previously in the  
4 other two buildings. So it was really quite difficult to  
5 make changes without going through three or four different  
6 people to get those changes made and then always being told  
7 no. It made it quite difficult.

8 Q And were the changes that you were trying to make, did  
9 those include improving the staffing in the facility?

10 MR. REID: Your Honor, that question is leading.

11 THE COURT: Sustained.

12 Q (By MS. CLEMENT) Can you tell the jury what type of  
13 changes you were trying to make in the building that you  
14 were -- that were being turned down?

15 A What I was trying to do is to allow for the staff to  
16 have, um, less residents and to be able to manage those  
17 residents on either side of these towers without having to  
18 manage a resident on this side and then go to this side to  
19 manage a resident, which made it quite difficult. The  
20 building is really very large and to have residents on both  
21 sides of these towers made it impossible for the staff to  
22 manage the residents in the manner in which they should have  
23 been managed.

24 And, um, of course, I was asked to cut housekeeping  
25 staff and if I cut housekeeping staff that just puts the  
26 work on the caregivers and that takes away from the  
27 residents. So when I refused to cut the staff in  
28 housekeeping then, I guess I have to say, that is when all



1 of my troubles began.

2 Q When you first got to Rancho Solano did you make it a  
3 point to observe the Memory Care Unit?

4 A Yes, I did observe the Memory Care Unit.

5 Q And what were the conditions like at the Memory Care  
6 Unit in Rancho Solano when you first got there?

7 MR. REID: That's vague, your Honor.

8 THE COURT: Overruled.

9 You can answer.

10 THE WITNESS: Thank you, ma'am.

11 Um, when I observed the -- sorry (crying).

12 THE COURT: Here, have some tissues.

13 THE WITNESS: No, it's okay.

14 When I observed the Memory Care Unit, um, the  
15 residents were eating out of bowls that were bought by the  
16 staff from the Dollar Store. They were silver dog bowls.  
17 And I brought it to the attention of the director of memory  
18 care for Emeritus, and I asked to purchase these bowls that  
19 we had had previously, um, they are called Fiestaware and  
20 it's designed for memory care. And, um, so I asked if I  
21 could purchase those, and I was denied that.

22 So I gave these bowls and these Melamine blue dishes  
23 that were bought from the Dollar Store by the staff, I gave  
24 it to the director of memory care to show to the company  
25 what their residents are eating out of. So they denied me  
26 that. They said it wasn't in the budget.

27 But, being who I am, I bought them anyway little by  
28 little, enough for each resident to have a place setting.

1 So that was my first experience like that. Sorry.

2 So Don Zimmerman, my regional director at that time --

3 MR. REID: This is becoming a narrative, your Honor.

4 THE COURT: Let's wait for our next question.

5 THE WITNESS: Okay. I'm sorry.

6 THE COURT: That is okay.

7 Q (By MS. CLEMENT) Can you tell us what you did to  
8 follow-up in trying to get -- well, let me ask you a  
9 question.

10 Fiestaware, was that like colorful plates and bowls?

11 A Yes, it's colorful plates and bowls so that the  
12 residents are able to see the food more clearly.

13 Q And was it your understanding and training that that  
14 was part of Emeritus' program, what they advertised was that  
15 this dining experience for dementia residents was going to  
16 be successful because they gave the residents brightly  
17 colored plates and dishes?

18 A Well, that --

19 MR. REID: That is leading, your Honor.

20 THE COURT: It is. Sustained.

21 Q (By MS. CLEMENT) Can you tell us what you understood  
22 as to why, um, you wanted to be using these colorful Fiesta  
23 plates?

24 A From my --

25 MR. REID: That's asked and answered.

26 THE COURT: Overruled. She can answer.

27 THE WITNESS: From my experience with those types of  
28 dishes, Fiestaware, um, is that the dishes help the

1 residents who are sight-impaired to find their food easily  
2 so that, um, it doesn't get lost on a white plate, so that  
3 they can see fish or cauliflower or potatoes very easily  
4 because it's a yellow dish and it will be very clear for the  
5 resident to see and it helps the resident.

6 Q (By MS. CLEMENT) Um, when you discovered the  
7 residents were eating out of dog bowls in the Memory Care  
8 Unit, did you go to your supervisor, um, Mr. Zimmerman?

9 A Uh-huh. Oh, I mean yes. Thank you. Yes.

10 Q And what was his response?

11 A His response was that he would check on it and he got  
12 back to me and said it wasn't in the budget, that we could  
13 not buy it.

14 Q Were there any physical problems in the building that  
15 affected the Memory Care Unit?

16 A I -- for myself, I'm not an engineer, but one of the  
17 things that were requested by myself and by the marketing  
18 person at that time is to have the memory care moved, um,  
19 because the residents couldn't go outside. The two  
20 balconies that were on the second floor for the residents to  
21 sit on, they were, for myself, not stable enough, so we  
22 never let allowed the residents out there.

23 Um, and the floor in the memory care was swaying, um,  
24 in parts, and I brought that to the attention of Don  
25 Zimmerman and, um, that -- that's all that was done about it  
26 while I was there; nothing. Nothing was done about it.

27 Q So you brought to the attention of your regional  
28 director of operations that the balconies were not safe for

1 the Memory Care Unit residents to go out on; true?

2 A Yes.

3 Q And you also let Mr. Zimmerman know that the floor in  
4 the Memory Care Unit was swaying?

5 A Uh-huh, yes.

6 Q And, um, what was the response?

7 A I didn't get any response back. No, um, I've told  
8 anybody about it. Nothing. No response back at all from  
9 him. So I don't know if -- what happened about it.

10 Q How long were you in that building?

11 A From March -- end of March to December 4th.

12 Q And any time in that time period, the eight months  
13 that you were there as the executive director, was there any  
14 physical plant improvement done to the building so that the  
15 second floor balconies were stabilized or that the floor was  
16 repaired, um, where it swayed in the Memory Care Unit?

17 A There was --

18 MR. REID: It's compound and asked and answered and  
19 leading.

20 MS. CLEMENT: I will rephrase.

21 Q (By MS. CLEMENT) In the eight months that you were  
22 there, did Emeritus repair the balconies so that you felt it  
23 was safe to allow the residents to go out there?

24 MR. REID: I think that is asked and answered, your  
25 Honor.

26 THE COURT: Overruled.

27 THE WITNESS: No. Nothing was repaired in that  
28 building the entire eight months that I was there.

1 Q (By MS. CLEMENT) Were there any other issues, um, at  
2 Emeritus Rancho Solano that you observed where there was,  
3 um, what you thought were safety issues for the residents to  
4 use their balconies?

5 MR. REID: Relevance and 352, your Honor, and 1101(b).

6 THE COURT: I don't know about the 1101(b), but I  
7 think we have gone beyond the scope of relevance right now.  
8 Without any more specifics, I'm going to sustain it.

9 MS. CLEMENT: Okay.

10 Q (By MS. CLEMENT) You do know who Catherine Ratelle  
11 is, right?

12 A Yes, I do.

13 Q Did you ever talk to Catherine Ratelle about the  
14 problems with the rotting balconies and the swaying floors?

15 MR. REID: Your Honor, that misstates the testimony  
16 and assumes facts not established and it's compound.

17 THE COURT: She is asking her. Overruled.

18 MR. REID: Well then...

19 THE COURT: I'm sorry?

20 MR. REID: Then it would be leading as the question is  
21 phrased.

22 THE COURT: Overruled.

23 THE WITNESS: In -- I don't remember the exact month,  
24 um, but it was in the spring, um, my maintenance director  
25 came to me and said he has a problem with one of the  
26 balconies on the third floor. He said, It's got a lot of  
27 dry rot. I said, Okay, let's go see it. So we went to see  
28 it and I said, Okay, I'm going to call Catherine and let her

1 know.

2 So the maintenance director -- regional director or  
3 the -- of the company -- I don't know what his title was  
4 really, but he was overseeing all of the maintenance  
5 directors. Um, he called me, so I let him know what was  
6 going on. So --

7 MR. REID: I don't think this is responsive to the  
8 question.

9 THE COURT: It isn't.

10 Could you read her back the question, please?

11 Listen carefully to the question.

12 THE WITNESS: Okay.

13 (Whereupon the last question was read back as requested.)

14 THE WITNESS: Yes.

15 Q (By MS. CLEMENT) And what did you, um, tell  
16 Ms. Ratelle -- that kind of sounds funny.

17 What did you tell Catherine Ratelle?

18 A Okay. I told her that the third floor balcony on the  
19 assisted living side, one of the resident's apartments had  
20 dry rot and that it was unsafe.

21 Q And what was her response?

22 A She said she was going to call the, um, regional  
23 director or the vice president of maintenance.

24 Q And did Ms. Ratelle ever offer to have that third  
25 floor balcony fixed?

26 A No.

27 Q Now, did you have any problems at the Rancho Solano  
28 facility with employee turnover?

1 A Yes.

2 Q And can you describe for the jury what type of  
3 problems you had with employee turnover at the Rancho Solano  
4 facility?

5 A Um, it was very hard to keep personal care assistants  
6 or CNAs or, you know, the resident care assistants. Um,  
7 they would come to work and -- sometimes not show up, and  
8 that's pretty much it.

9 Q Did you feel that there was enough staff to get all of  
10 the residents at the facility to their meals?

11 A No.

12 Q And what was your concern in that regard?

13 A My concern, as I stated previously, is because the  
14 layout of the community that residents -- the care  
15 assistants would have to get somebody from the third floor,  
16 the second floor, the first floor, from this side, from that  
17 side, and it just was very difficult to manage, to get  
18 everybody to meals, um, in a timely manner and to have  
19 assistance at meal time for the residents.

20 Q Did you ever have concerns at Rancho Solano that there  
21 were, um, enough activities for the residents?

22 A I think activities were adequate. I think that  
23 they -- they -- the activity director did a good job in  
24 providing for the residents.

25 Q How about training for the staff, did you feel like  
26 the staff had the proper training that they needed --

27 A No.

28 Q -- when you came to Rancho Solano?

1 A Oh, I'm sorry. I should let you finish.

2 No, they did not.

3 Q And did you or any of the -- did you request training  
4 for the staff?

5 A The training usually is done by the community --

6 MR. REID: Your Honor, the question is non -- I mean,  
7 the answer is non-responsive.

8 THE COURT: Could you please -- sustained.

9 Could you please read her back the question?

10 MS. CLEMENT: Yes. I will ask the question again.

11 THE COURT: All right.

12 MS. CLEMENT: Thank you, Judge.

13 Q (By MS. CLEMENT) Did you ever request approval for  
14 training from your supervisors to have someone come in and  
15 train the staff?

16 A Um, I'm going to have to say no based on the yes or no  
17 question. I don't know.

18 Q Did you ever direct any of the, um, people that worked  
19 at the facility for you to request training for your staff?

20 A No.

21 Q Did you have an understanding whether any of your  
22 staff members had requested training?

23 MR. REID: Calls for hearsay.

24 THE COURT: She can answer. It's a yes or no.

25 THE WITNESS: Yes. Um, no.

26 Q (By MS. CLEMENT) Who was Crystal James?

27 A She was my nurse at that time.

28 Q And how long did you have Crystal James as a nurse at



1 your facility?

2 A She left -- I'm going to say four months at the most.

3 Q And after Crystal James left, um, how long did you go  
4 without a nurse?

5 A I don't recall having a nurse after she left. But  
6 after she left that was a very trying time for me, so I  
7 don't recall having one after that.

8 Q Did you have, um, family complaints?

9 A Yes.

10 Q And what kind of complaints did you have from the  
11 families of the residents who lived at Rancho Solano?

12 MR. REID: It's overbroad, your Honor.

13 THE WITNESS: Hum.

14 THE COURT: Sustained.

15 Q (By MS. CLEMENT) Did you have complaints from the  
16 families with regard to resident care issues?

17 A Yes.

18 Q And can you describe to the jury what type of  
19 complaints you had regarding resident care issues from the  
20 families of the residents?

21 A Um, the biggest complaints we had was that their  
22 family was waiting too long to have their call light  
23 answered, um, and waiting too long to come to meals. Um,  
24 those were some of the -- waiting too long to go to the  
25 bathroom. Um, those were some of the biggest complaints  
26 that we had.

27 Q And with regard to staffing, what kind of staffing did  
28 you ask for so that you felt that the residents at a minimum

1 would be properly cared for?

2 A The only thing I remember is the -- excuse me --  
3 the -- the effect of cutting housekeeping staff, that that  
4 would -- the burden that it would put on the caregivers.  
5 That's -- that's the event that I remember the most about  
6 that time. I don't recall the amount of staffing or  
7 anything like that. Um, it was quite a few years ago, so  
8 that's the event that really sticks in my mind because I --  
9 I really was against it.

10 MS. CLEMENT: Um, may I approach to show the witness  
11 Exhibit 285?

12 THE COURT: Yes.

13 MS. CLEMENT: Thank you.

14 This is a binder. This is where we keep all of the  
15 exhibits and they have little tabs.

16 Q (By MS. CLEMENT) Did you receive an e-mail from  
17 Catherine Ratelle in June of 2008 that we have marked as  
18 Exhibit 285?

19 A Yes.

20 Q And, um, did you send a reply to Mr. -- to, excuse me,  
21 Ms. Ratelle and your regional director of operations,  
22 Mr. Zimmerman, that same day?

23 A Uh-huh. Um, yes, I did.

24 Q Okay. And, um, other than Mr. Zimmerman, did you copy  
25 anybody else on this e-mail?

26 A I did.

27 Q And, um, who else did you copy on this e-mail?

28 A I blind CCed Dan Baty, Melanie Werdel, and Granger

1 Cobb.

2 Q Did you ever get a reply from Mr. Dan Baty,  
3 Ms. Melanie Werdel, or Granger Cobb?

4 A No.

5 Q And did Catherine Ratelle call you after you sent this  
6 e-mail and apologize to you?

7 A No.

8 Q Now, I want to focus your time, this next question, to  
9 after you received this e-mail, about six weeks later.

10 Did you have a visit in mid to late August of 2008  
11 from Catherine Ratelle, Ronda Castleberg and Angela Neale?

12 A I don't know the time frame, but, yes, after this  
13 e-mail I -- I -- they did visit me.

14 Q And what was the message they delivered to you when  
15 they met with you after you sent this e-mail?

16 A We never discussed this e-mail at this meeting. This  
17 e-mail was probably never discussed after this was sent.  
18 Um, and, you know, I don't recall really what we said at  
19 that meeting. Um, I just -- I mean, that was so long ago I  
20 just don't remember.

21 Q Were you ever asked by Catherine Ratelle, Ronda  
22 Castleberg and Angela Neale to cut staff further in your  
23 building?

24 MR. REID: That's leading, your Honor, lacks  
25 foundation.

26 THE COURT: She can answer.

27 THE WITNESS: The only, um, time they asked me to cut  
28 staff was the housekeeping staff, um, because of the

1 apartments, um, that were empty -- the amount of apartments  
2 that were empty. They didn't feel that the housekeeping  
3 staff, um, needed that, you know, that many hours, um,  
4 because the empty apartments. But they didn't take into  
5 consideration where the residents were that were filled --  
6 that did have apartments. They were everywhere. They  
7 weren't on just one side of the building, they were on the  
8 second floor, the third floor, the first floor, on this  
9 side, on that side, on the backside, on the front side, you  
10 know.

11 And, you know, those empty apartments --

12 MR. REID: Your Honor, this is --

13 THE WITNESS: -- still needed to be cleaned.

14 MR. REID: -- becoming a narrative.

15 THE COURT: Let's move on to the next question.

16 Q (By MS. CLEMENT) Whose job did it become to clean  
17 when your -- they told you your housekeeping staff had to be  
18 cut?

19 A Well, it would have been the caregivers, but I never  
20 had a chance to make the changes.

21 Q And why is that?

22 A Because I was let go.

23 Q Um, did you feel pressure at Emeritus in Rancho Solano  
24 to admit residents who you thought were too high level of  
25 care for assisted living?

26 MR. REID: The question is leading, your Honor.

27 THE COURT: She can answer.

28 THE WITNESS: We were never allowed to deny an

1 admission without first getting approval.

2 Q (By MS. CLEMENT) And who did you have to get approval  
3 from to deny an admission?

4 A Either Catherine Ratelle, Lisa Hulse -- it had to be  
5 somebody in that level to, um, say yes or no to an admission  
6 if we didn't feel like we could take care of that particular  
7 person.

8 Q Did you ever feel pressure to admit residents without  
9 the required physician's 602 report?

10 A I never felt that particular pressure, no.

11 Q Were you ever -- did you ever have a particular  
12 concern toward the end of your tenure with the company about  
13 admitting a resident who suffered from a mental disorder  
14 called schizophrenia?

15 A I never experienced that, no.

16 Q When you were terminated at Rancho -- from Rancho  
17 Solano --

18 A Uh-huh.

19 Q -- were you told why you were terminated?

20 A That my performance was not, um, I guess I'm going to  
21 say, adequate, and I wasn't performing. Census was down,  
22 um, EBITDARM was down. Um, they measured also by revenue  
23 per unit, RPU, um, although my revenue per unit was going up  
24 but census was still low, um, and that was their reasoning,  
25 as far as I can remember.

26 Q Was it your understanding when you worked at Rancho  
27 Solano that you could have as much staff as you wanted?

28 A Oh, no.

1 Q Did you have control over the budget for staffing?

2 A No. The budget is -- is -- was made when I was --  
3 arrived there, so I had no input into that particular  
4 budget. Um, so what was on that budget is what I had to  
5 deal with.

6 Q And if you went over budget in any line item area of  
7 the budget, say, staffing, food cost, supplies, would you  
8 have to answer to corporate to like each of those in a  
9 budget variance detail report every month?

10 MR. REID: That is argumentative and leading as  
11 phrased, your Honor.

12 THE COURT: It is argumentative as phrased.

13 MS. CLEMENT: Okay. I will rephrase. Sorry, your  
14 Honor.

15 Q (By MS. CLEMENT) Would you have to respond to  
16 Emeritus, your supervisors, in -- in a variance detail  
17 report each month if you went over any line item on the  
18 budget?

19 A Yes.

20 Q And was that stressful for you?

21 A Oh, yes.

22 Q Did you ever hear the phrase "close the back door" at  
23 Emeritus?

24 A Yes.

25 Q And what did you understand that term to mean at  
26 Emeritus?

27 A That we would do everything possible to save the  
28 move-out.

1 Q Did you ever hear the phrase "heads in the beds" at  
2 Emeritus?

3 A I never heard that particular one, no.

4 Q Was it your, um -- did you receive e-mails from  
5 Catherine Ratelle that you were supposed to make sales and  
6 increasing occupancy your number one priority?

7 A I don't know particularly if it came in a e-mail form  
8 but that was always the topic of discussion.

9 Q Was that always the topic of discussion at Emeritus?

10 MR. REID: That's vague and overbroad.

11 THE COURT: Sustained.

12 Q (By MS. CLEMENT) Was sales and increasing occupancy  
13 always the topic of discussion when you spoke with Catherine  
14 Ratelle?

15 A It was always part of a discussion.

16 Q Did Catherine Ratelle ever talk to you in her  
17 discussions with you about how she wanted you to put the  
18 resident care needs number one?

19 A No.

20 Q Did you ever have that impression when she was acting  
21 as your supervisor that her focus was to put the residents'  
22 care needs number one?

23 A Never.

24 Q Were you ever fearful in your job as the executive  
25 director at Rancho Solano?

26 MR. REID: That's vague and overbroad and --

27 THE COURT: Sustained.

28 Q (By MS. CLEMENT) You told us that you were under a

1 lot of stress in that position; is that true?

2 A Oh, yes.

3 Q Can you describe for us why you felt so stressed in  
4 that position?

5 A I felt very stressed because it seemed as though no  
6 matter what you tried or what you asked for it was shot down  
7 or you're just spinning your wheels trying to make the next  
8 day work, you know. I just never, never -- nothing was ever  
9 done, in my opinion. No matter what you asked for, it was  
10 never taken in -- taken into consideration. Um, so it was  
11 very, very frustrating and very stressful.

12 MS. CLEMENT: Can we take our lunch break now, your  
13 Honor?

14 THE COURT: We have three more minutes.

15 MS. CLEMENT: Okay. Well, I don't think I have any  
16 other questions, your Honor.

17 THE COURT: Mr. Reid?

18 MR. REID: Yes, your Honor.

19 CROSS-EXAMINATION

20 By BRYAN R. REID, Attorney at Law, Counsel on behalf of the  
21 Defendant:

22 Q Good morning, Ms. Ting.

23 A Good morning.

24 Q My name is Bryan Reid. I represent Emeritus. I don't  
25 have a lot of questions but it will be more than three  
26 minutes.

27 You were -- after you were fired from Emeritus you  
28 were in the same lawsuit as Ms. Paglia, right?



1 MS. CLEMENT: Objection, exceeds the scope.

2 THE COURT: Are you going to -- it does. What is the  
3 relevance then?

4 MR. REID: The relevance goes to her bias, your Honor.

5 THE COURT: You can ask.

6 Q (By MR. REID) You were part of the lawsuit that  
7 Ms. Paglia filed, correct?

8 A Yes, sir, I was.

9 Q And, um, in October of 2009, um -- well, when -- was  
10 the lawsuit filed in March of 2009?

11 MS. CLEMENT: Your Honor, I do have a concern about  
12 this because of the confidentiality agreement.

13 THE COURT: All right. Ladies and gentlemen, leave  
14 your notebooks on the chairs. Remember the admonitions. I  
15 will see you back at 1:30.

16 And if you could just stay for one moment after the  
17 jury leaves.

18 THE WITNESS: Okay. Thank you.

19 **(The following proceedings were held in open court, outside**  
20 **the presence of the jury:)**

21 THE COURT: All right. You can all be seated, please.

22 Mr. Reid, do you intend to go into -- this is the  
23 first I've learned of this. Is there a confidentiality  
24 agreement with respect to any settlement that may have been  
25 reached with this witness?

26 MR. REID: I'm aware that the witness executed  
27 basically a identical release as Ms. Paglia. I don't have  
28 it. I wasn't going to reference it.

1 MS. CLEMENT: Well, the witness, to my  
2 understanding -- I mean, we have the Paglia release. The  
3 witness, um, if it's the same -- and I am shocked and  
4 surprised that Counsel doesn't have it because he has her  
5 deposition transcript and parts of her personnel file from  
6 another facility.

7 Um, but the agreement is that the witness is not  
8 allowed to talk about it or the terms of it or the actual  
9 suit itself. And now Mr. Reid is bringing it up and there  
10 is penalties attached.

11 THE COURT: What is the reason for raising this --  
12 well, let me ask this: You have a confidentiality  
13 agreement; is that correct?

14 THE WITNESS: Yes, ma'am.

15 THE COURT: Were you represented by counsel at the  
16 time you entered into that confidentiality agreement?

17 THE WITNESS: I was.

18 THE COURT: Is that local counsel or somebody far  
19 away?

20 THE WITNESS: Um, he is in Walnut Creek.

21 THE COURT: Okay. What I would like to do, I'm going  
22 to excuse you at this time. Could you see if you could get  
23 him on the phone if possible? Do you know his number?

24 THE WITNESS: No, but I -- I -- I can look it up on  
25 the Internet.

26 THE COURT: Okay. What I would -- what I would like  
27 to suggest is that you contact your attorney and tell him or  
28 her that you are being asked questions by Emeritus about the

1 lawsuit, what, if anything, would that attorney have to tell  
2 you about that, okay.

3 And then just -- I'll call you back in at 1:30 before  
4 the rest of the jury comes back in and find out if you were  
5 able to contact that person.

6 THE WITNESS: Okay.

7 THE COURT: Do you have a cell phone or something  
8 where you can look it up?

9 THE WITNESS: Yes, I do.

10 THE COURT: Okay. Thank you. Then why don't I excuse  
11 you at this time.

12 THE WITNESS: Okay. Thank you.

13 THE COURT: Thank you.

14 Could you remind me of the exhibit number that  
15 involved Ms. Paglia?

16 MR. REID: I think it was 5035, your Honor.

17 THE COURT: Mr. Reid, you do not have a copy of the  
18 settlement agreement?

19 MR. REID: I haven't marked a copy of the settlement  
20 agreement. I wasn't going to reference it --

21 THE COURT: Do you have a copy of it?

22 MR. REID: I do have a copy of it.

23 THE COURT: Did you not just tell me you don't have a  
24 copy of it?

25 MR. REID: I -- I was intending to communicate that I  
26 was not going to reference it, draw upon it, or offer it  
27 into evidence. I apologize if I misspoke.

28 MS. CLEMENT: Maybe we should look at that agreement.

1 THE COURT: May I see that agreement, please?

2 MR. REID: Yes, your Honor.

3 THE COURT: Mr. Reid, have you examined it to see if  
4 it's identical to the one signed by Ms. Paglia?

5 MR. REID: I haven't done a word-by-word comparison,  
6 but my impression is that it's identical except I think  
7 there is a difference in the amount.

8 MS. CLEMENT: May I have a copy of it as well, your  
9 Honor?

10 THE COURT: Just one moment, please.

11 MS. CLEMENT: Sure.

12 THE COURT: All right. Mr. Reid, I need you to  
13 provide a copy of this to Ms. Clement before she takes her  
14 lunch break.

15 What questions are you proposing to ask her?

16 MR. REID: I was going to ask her to confirm that the  
17 suit was filed in March of 2009, that it was resolved in  
18 October of 2009, and I was going to ask her a similar  
19 question that I asked Ms. Paglia which is, did she express  
20 to anyone at that time, um, that she recalls that she had  
21 no, um, information of Emeritus violating any State, Federal  
22 or other law or regulation.

23 THE COURT: Well, the same question that we wound up  
24 asking the prior witness was, Did she at any time -- I don't  
25 remember the exact wording. But did she at any time either  
26 report anything to the Department of Social Services or  
27 believe, um, that there had been any violation of State or  
28 Federal -- or whatever the exact wording was. I -- I don't

1 have a problem with that.

2 That's the only reason why this settlement agreement,  
3 any possibility of the language in it, might arguably come  
4 in is if she says, yes, I did, as opposed to what she said  
5 in the settlement agreement. Then it becomes possibly  
6 impeaching evidence for which only a portion of it would  
7 otherwise be discussable or admissible.

8 But, again, I mean, I do not want to be in the  
9 business of advising this witness as to whether or not by  
10 merely even raising or discussing the topic of the  
11 settlement, other than the fact that there was, in fact, a  
12 lawsuit, would be a violation that would subject her to any  
13 type of ramifications. That's not my job.

14 MR. REID: Right.

15 THE COURT: But it would be, I believe, my  
16 responsibility to advise her to consult with an attorney  
17 first, which is what I did. And whether or not she is able  
18 to reach that person on short notice, I don't know.

19 I have no problem with you asking her that general  
20 question that we talked about.

21 MR. REID: Okay.

22 THE COURT: And then seeing where we go at that point.

23 MR. REID: Okay.

24 THE COURT: And discussing whether or not then we have  
25 to have anything related to the settlement agreement.

26 The fact she was part of a lawsuit arguably is  
27 relevant to credibility and the fact that the lawsuit may  
28 have resolved, that's okay. But beyond that, I don't want

1 to go anywhere else with respect to the settlement agreement  
2 unless and until I know that she has had communications with  
3 an attorney and is aware potentially of what she could or  
4 could not say.

5 MR. REID: Very good, your Honor.

6 May I say one thing for the record because all of our  
7 conversations have been off -- off the -- on sidebar?

8 Admittedly I'm not an expert on contract, but my  
9 understanding is that the confidentiality of this -- of  
10 these documents runs one way. And my position is that  
11 Emeritus has the right to question the witness, um,  
12 concerning the settlement. I just wanted to -- to raise  
13 that for the record.

14 THE COURT: Well, the document that you are  
15 referencing has language in it about what she is agreeing to  
16 regarding the confidentiality. But the title of the  
17 document is "confidential settlement agreement and general  
18 release of all claims."

19 MR. REID: Right.

20 THE COURT: And as I said, I am not in the business of  
21 advising witnesses what their responsibilities and rights  
22 are under a settlement agreement.

23 I do think it would be important to note for the  
24 record that if we get to that, that it is Emeritus who is  
25 asking her these questions. It was not Emeritus that  
26 subpoenaed her to be here. I am not ordering her to answer  
27 any of these questions. So as far as I know, I am not  
28 compelling her to do that. I believe she was subpoenaed by

1 Ms. Clement, correct?

2 MR. REID: Um, as far as I know she was subpoenaed.

3 THE COURT: Okay. And Ms. Clement did not ask her any  
4 questions whatsoever regarding the settlement agreement. So  
5 that is kind of the factual basis behind all of this.

6 Now, what I said to you at sidebar, for purposes of  
7 the record, is whether or not a settlement agreement which  
8 runs one way about confidentiality holds up is not something  
9 that I am going to opine about. I do believe she is  
10 entitled to consult with her attorney before she responds to  
11 any questions.

12 MS. CLEMENT: Your Honor, before we get back on the  
13 record with the witness and the jury here, the Defense has  
14 marked as 5036 part of Ms. Ting's personnel file from when  
15 she worked at Westwind Gardens in 2006 it looks like.

16 And to my understanding they haven't subpoenaed her or  
17 given her notice of getting, um, into her personnel file  
18 or -- which is required under -- I think it's 1985.1 of the  
19 Code of Civil Procedure. That is off the top of my head.  
20 But I do know that it's -- it's a confidentiality issue and  
21 you have to give notice and you have to request in advance,  
22 just like we did, for any aspect of the employee's personnel  
23 files. And unless this witness is going to consent to them  
24 going into her personnel files, I would object. They are  
25 not allowed to use this.

26 In addition, we had an agreement before trial that the  
27 Defense would not be pulling out aspects of people's  
28 personnel files that weren't already produced in discovery.

1           THE COURT: Well, as to the latter point, I am not  
2 personally aware of any agreements which may or may not have  
3 taken place between the parties. And if it's not in writing  
4 and if it's not in front of me, I am not going to get into a  
5 evidentiary hearing on those kinds of agreements.

6           MS. CLEMENT: Understood, your Honor.

7           THE COURT: But, Mr. Reid, is it your intent to use  
8 5036 with this witness?

9           MR. REID: That was my intent. That document was  
10 attached as an exhibit to her deposition in the matter of  
11 Ting versus Emeritus. So I was --

12          THE COURT: But is now subject to some type of  
13 confidentiality agreements.

14          MR. REID: Well, the settlement sure is. I don't know  
15 whether all of the documents attached to her deposition  
16 would be.

17          THE COURT: Okay. Here's what you -- I'm going to  
18 suggest.

19          MR. REID: Yes, your Honor.

20          THE COURT: There is a Code of Civil Procedure section  
21 requiring that. She obviously would have waived in a  
22 lawsuit involving her personally as a party certain aspects  
23 of her background that may be involved, but this is not her  
24 lawsuit. She is a witness in this case.

25          MR. REID: Right.

26          THE COURT: And whether or not arguably her waiving it  
27 by having done it in another lawsuit that involved her as a  
28 party is a waiver for all purposes in this case, again, is



1 not something I'm going to opine about off the top of my  
2 head at this point.

3 So, if you can show me something to that effect, i.e.,  
4 a case when we come back at 1:30, I can rule on it by  
5 looking at that case. But in an abundance of caution, if I  
6 do not see that, you will not use it.

7 MR. REID: That is -- I will withdraw it. It's not  
8 that big of a deal from our perspective. And not to be  
9 demeaning, I will withdraw the exhibit and just ask her some  
10 questions about whether she is a mandated reporter.

11 THE COURT: All right. We are in recess.

12 MR. REID: Thank you.

13 (Lunch recess.)

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TUESDAY, JANUARY 29, 2013

AFTERNOON SESSION

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The matter of JOAN BOICE, by and through her  
Successor-in-Interest, ERIC BOICE, and ERIC BOICE, NANCEE  
BOICE, and MARK BOICE, individually, Plaintiffs, versus  
EMERITUS CORPORATION dba EMERITUS AT EMERALD HILLS,  
Defendant, Case Number 34-2009-00063714, came on regularly  
this day before Honorable JUDY HOLZER HERSHER, Judge of the  
Superior Court of California, for the County of Sacramento,  
Department 45.

The Plaintiffs, JOAN BOICE, by and through her  
Successor-in-Interest, ERIC BOICE, and ERIC BOICE, NANCEE  
BOICE and MARK BOICE, were represented by LESLEY A.  
CLEMENT, Attorney at Law; VALERIE DAWSON, Attorney at Law  
(not present); ASHLEY BAIRD, Attorney at Law; and SEAN  
LAIRD, Attorney at Law.

The Plaintiffs, ERIC BOICE and MARK BOICE were  
present.

The Plaintiff, NANCEE BOICE, was not present.

The Defendant, EMERITUS CORPORATION dba EMERITUS AT  
EMERALD HILLS, was represented by BRYAN R. REID, Attorney  
at Law; RIMA BADAWIYA, Attorney at Law; and KIM M. WELLS,  
Attorney at Law.

Also present on behalf of the Defendant, EMERITUS  
CORPORATION dba EMERITUS AT EMERALD HILLS, was JANET E.  
McKINNON, Vice President of Legal Affairs; LISA HULSE, Vice  
President Quality & Risk Management; and HOLLY A. FORD,

1 Trial Consultant.

2 (The following proceedings were then had in open  
3 court, outside the presence of the jury.)

4 THE COURT ATTENDANT: Please remain seated and come  
5 to order. Department 45 is once again in session. The  
6 Honorable Judge Judy Hersher presiding.

7 THE COURT: All right. Miss Ting, were you able to  
8 get in touch with an attorney?

9 THE WITNESS: Yes, I was.

10 THE COURT: Okay. I am not sure we're actually  
11 going to ask any questions related to the settlement  
12 agreement. But did you have a chance to talk about the  
13 fact that you were here in court and there might be a  
14 question coming to you regarding that?

15 THE WITNESS: Mm-hmm.

16 THE COURT: Is that a "yes"?

17 THE WITNESS: Yeah. I mean, yes. Thank you.

18 THE COURT: Okay. All right.

19 And, Mr. Reid, do I need to find out whether or not  
20 she'll answer any questions related to that, or where are  
21 we going?

22 MR. REID: Well, I'm not intending to ask her  
23 questions about the settlement agreement, so...

24 THE COURT: Okay. All right. Then I think we're  
25 okay for now.

26 If there's any question that is asked to you that  
27 you think creates a problem for you because of that  
28 agreement, would you just turn to me and say, "Judge, can I

1 talk to you for a moment?" Okay?

2 THE WITNESS: Yes, ma'am.

3 THE COURT: Thank you.

4 MS. CLEMENT: Your Honor, I think the issue might  
5 also be the -- asking questions about the lawsuit itself,  
6 not just about the settlement agreement.

7 THE COURT: My understanding is that -- well, the  
8 filing of a lawsuit is a public record.

9 MS. CLEMENT: Oh, absolutely.

10 THE COURT: But the fact that a lawsuit was filed  
11 and she was a party to it, in my mind, is okay. The fact  
12 that it may have been resolved, or settled, or dismissed,  
13 that's okay. The substance of what went on and any terms  
14 and conditions, that was the area that I was most concerned  
15 about. All right?

16 MR. REID: That's fine, your Honor.

17 THE COURT: Let's bring in the jury.

18 **(The following proceedings were then had in open**  
19 **court, in the presence of the jury.)**

20 THE COURT ATTENDANT: Come to order. Department 45  
21 is in session. The Honorable Judge Judy Hersher presiding.

22 You may be seated.

23 THE COURT: Mr. Reid.

24 MR. REID: Thank you, your Honor.

25 Good afternoon, ladies and gentlemen.

26 JURORS IN UNISON: Good afternoon.

27 TESTIMONY OF

28 DOROTHY MARIE TING, a witness called by the Plaintiffs:

1 CROSS-EXAMINATION (resumed)

2 BY BRYAN R. REID, Attorney at Law, Counsel on behalf of the  
3 Defendant:

4 Q. Miss Ting, I really only have just a few questions  
5 here to finish up with.

6 That lawsuit you filed against Emeritus, that was  
7 resolved without a trial, right?

8 A. Yes.

9 Q. Okay. And the entire time that you have worked in  
10 assisted living and, in particular, for Emeritus, you've  
11 been a mandated reporter, correct?

12 A. Yes.

13 Q. Okay. And was there ever a time -- how long have  
14 you been working in assisted living?

15 A. For about -- about ten years now.

16 Q. Okay. And what's been your priority in working in  
17 assisted living?

18 A. Resident care.

19 Q. Has there ever been a time that you needed somebody  
20 to tell you that; that you needed to make resident care  
21 your priority?

22 A. No.

23 Q. Now, during -- you've never worked at Emerald Hills,  
24 right?

25 A. No.

26 Q. Correct?

27 A. No.

28 Q. All right. We have a double negative. That was my

1 fault.

2 Have you ever worked at Emerald Hills?

3 A. No.

4 Q. And did you ever have any involvement with staffing  
5 Emerald Hills?

6 A. No.

7 Q. Did you ever have any involvement with the training  
8 at Emerald Hills?

9 A. No.

10 Q. Did you ever have any involvement in providing care  
11 to Joan Boice?

12 A. No.

13 Q. And have you had an opportunity to meet with  
14 Ms. Clement before coming in to testify?

15 A. Just by phone.

16 Q. Okay. And when did that take place?

17 A. I don't remember.

18 Q. Has Ms. Clement's office been giving you rides here  
19 to court?

20 A. Yes. I did get a ride from them, from their office.

21 Q. Okay. And did you -- have you -- did you talk to  
22 anybody over the lunch break about your testimony from  
23 Ms. Clement's office?

24 A. I was in a room to eat my lunch by myself.

25 Q. Okay. That doesn't sound very fun.

26 A. It's not.

27 MR. REID: I have no more questions. Thank you.

28 THE COURT: Miss Clement, anything else?

1 MS. CLEMENT: No, your Honor.

2 THE COURT: Ladies and gentlemen, do you have any  
3 questions for this witness?

4 Please approach, Counsel.

5 (Whereupon an unreported bench conference was then  
6 had in open court between the Court and counsel.)

7 THE COURT: All right. Miss Ting, we do allow our  
8 jurors to ask questions. Sometimes they ask questions  
9 because they want some clarification. Sometimes they ask  
10 questions because perhaps they did not hear an answer to a  
11 question you may have already answered.

12 THE WITNESS: Mm-hmm.

13 THE COURT: So please turn and respond to them.

14 THE WITNESS: Sure.

15 THE COURT: What was your opinion of Cathy Ratelle  
16 regarding her management style when you worked for  
17 Emeritus?

18 THE WITNESS: I -- my opinion and my thoughts are  
19 that I thought she lacked experience for the job title that  
20 she had and that she was nonresponsive to the needs of our  
21 community.

22 THE COURT: As a mandated reporter -- well, let me  
23 back up.

24 Could you tell the jury what a mandated reporter is.

25 THE WITNESS: A mandated reporter is a person who  
26 works in a care facility, is mandated by law to report any  
27 incidents of abuse or any care issues to the State  
28 Ombudsman's Office or the Department of Social Services.

1 We're mandated by law to do that.

2 THE COURT: As a mandate reporter, did you ever  
3 contact the Department of Social Services regarding any  
4 issues in any Emeritus facility?

5 THE WITNESS: I cannot remember doing such a thing,  
6 no, not at this time.

7 THE COURT: This juror wants to know if you can  
8 remember, what was the time frame from when you first  
9 asked -- when you were asked to cut housekeeping staff to  
10 the time of your termination?

11 THE WITNESS: Oh, geez. I can only speculate.  
12 Maybe two months.

13 THE COURT: Well, we don't want you to guess.

14 THE WITNESS: Yeah. I don't know. I'll just say --  
15 yeah, I really -- I can't remember. It was so long ago.

16 THE COURT: When you were at Emeritus, if service --  
17 if the needs of the residents required increased services  
18 which resulted in their paying higher cost, did the staff  
19 then go up in terms of the numbers?

20 THE WITNESS: No.

21 THE COURT: Do you know what a variance increase is,  
22 when you were at Emeritus?

23 THE WITNESS: No, I don't recall that.

24 THE COURT: Have you ever heard that terminology,  
25 "a variance increase"?

26 THE WITNESS: We have terminology like labor  
27 variance and, um, end-of-month variance, variance to budget  
28 to staffing, hours -- labor hours to budget, those types of



1 variances. But I don't know particularly that terminology.

2 THE COURT: Well, I don't know if you can answer  
3 this question or not. But the juror says, we heard that  
4 you could use a variance increase for items that went over  
5 budget.

6 Did you ever use a variance increase for the dishes  
7 you purchased on your own?

8 THE WITNESS: No.

9 THE COURT: Did you ever use a variance increase for  
10 staffing?

11 THE WITNESS: No. I don't recall that.

12 THE COURT: With respect to the Rancho Solano  
13 facility --

14 THE WITNESS: Mm-hmm.

15 THE COURT: -- could that facility be evacuated  
16 safely, in a timely manner, given the size and staffing  
17 problems you referenced?

18 They're referencing to an emergency situation.

19 THE WITNESS: Absolutely. Um -- hmm.

20 (Pause.)

21 THE WITNESS: I think it would have to depend on the  
22 emergency, on what the emergency would be. If we had an  
23 emergency that was imminent, that had to be dealt with  
24 right that second, then, no. But if we had, say, 30, 40  
25 minutes to evacuate, then probably, yes, we could.

26 THE COURT: Did you need anyone to tell you that  
27 sales are important?

28 THE WITNESS: Well, we were always told that sales

1 were important. But part of being in assisted living, part  
2 of the sales process is very important to the community,  
3 but it became the most important part of the community.  
4 Everything revolved around sales.

5 THE COURT: Miss Clement, wish to follow up?

6 MS. CLEMENT: No, your Honor.

7 THE COURT: Mr. Reid, wish to follow up?

8 MR. REID: Nothing further, your Honor.

9 THE COURT: May we excuse this witness?

10 MS. CLEMENT: Yes, we may.

11 MR. REID: Yes.

12 THE COURT: Thank you very much. You're excused.

13 THE WITNESS: Thank you.

14 THE COURT: Who is our next witness, please?

15 MS. CLEMENT: At this time, your Honor, the  
16 plaintiffs would seek to play a preapproved defense --  
17 thank you.

18 THE WITNESS: Thank you.

19 MS. CLEMENT: -- the defense expert, John Grant's  
20 video. It's about --

21 How many minutes, Erik?

22 MR. URIAS: Five minutes.

23 MS. CLEMENT: Five minutes.

24 THE COURT: And the portions have already been  
25 discussed with Mr. Reid?

26 And you're okay, Mr. Reid, with those portions?

27 MR. REID: Yes, your Honor.

28 THE COURT: All right. Then let's do it.